

Panaji, 7th June, 2018 (Jyaistha 17, 1940)

**SERIES II No. 10**

# **OFFICIAL GAZETTE GOVERNMENT OF GOA**

PUBLISHED BY AUTHORITY

**Note:-** There is one Extraordinary issue to the Official Gazette, Series II No. 9 dated 31-05-2018 namely, Extraordinary dated 05-06-2018 from pages 183 to 184 regarding Orders from Department of Elections.

## **GOVERNMENT OF GOA**

Department of Agriculture

Direectorate of Agriculture

### **Order**

No. 2/14/95/Agri(Part)/Vol.II/52

Government is pleased to order the transfer of the following Agriculture Officers/Zonal Agriculture Officers, Group "B" Gazetted of this Department to the offices indicated below against their names with immediate effect:

Sr. No.	Name of the officer	Place of present posting	Place of posting on transfer
1	2	3	4
1.	Shri Kishore Bhave	Agriculture Officer (extension), Directorate of Agriculture, Tonca, Caranzalem	As Zonal Agriculture Officer, Bicholim in place of Shri Pradeep Malik, transferred.
2.	Shri Pradeep Malik	Zonal Agriculture Officer, Bicholim, Zonal Agriculture Office, Bicholim	As Zonal Agriculture Officer, Tiswadi in place of Shri Audhut Sawant, transferred.
3.	Shri Audhut Sawant	Zonal Agriculture Officer, Tiswadi, Zonal Agriculture Office, Tiswadi	As Agriculture Officer (extension), Directorate of Agriculture, Tonca, Caranzalem in place of Shri Kishore Bhave, transferred.
4.	Shri Pramod Joshi	Agriculture Officer (North-I), District Agriculture Office, North, Tonca-Caranzalem	As Agriculture Officer (Training), Farmers Training Centre, Ela, Old Goa in place of Smt. Rouchelle Fernandes, transferred.
5.	Smt. Rouchelle Fernandes	Agriculture Officer (Training), Farmers Training Centre, Ela, Old Goa	As Agriculture Officer (North-I), District Agriculture Office, North, Tonca-Caranzalem in place of Shri Pramod Joshi, transferred.
6.	Smt. Vaibhavi Dessai	Agriculture Officer (South-I), District Agriculture Office, South	As Agriculture Officer (North-II), District Agriculture Office, North against the vacant post last held by Smt. Kameshwari Raikar.

## OFFICIAL GAZETTE — GOVT. OF GOA

SERIES II No. 10

7TH JUNE, 2018

The above officers shall stand relieved from their respective posts w.e.f. 31-05-2018 (a.n.). They shall hand over the charge to the respective link officer and proceed for joining their new postings w.e.f. 01-06-2018.

No joining time will be allowed in case there is no change of residence.

By order and in the name of the Governor of Goa.

*Nelson X. Figueiredo, Director & ex officio Joint Secretary (Agriculture).*

Tonca-Caranzalem, 29th May, 2018.

**Order**

No. 2/14/95/Agri(Part)/Vol.II/53

Government is pleased to order the transfer of the following Assistant Director of Agriculture, Group "A" Gazetted of this Department to the offices indicated below against their names with immediate effect:

Sr. No.	Name of the officer	Place of present posting	Place of posting on transfer
1	2	3	4
1.	Shri Satej G. Kamat	Asst. Director of Agriculture (Farms), Directorate of Agriculture, Tonca-Caranzalem	Against the vacant post of Asst. Director of Agriculture (extension), Directorate of Agriculture, Tonca-Caranzalem.
2.	Shri Rajesh Dessai	Asst. Director of Agriculture (FT), Farmers Training Centre, Ela, Old Goa	Asst. Director of Agriculture (Farms), Directorate of Agriculture, Tonca-Caranzalem in place of Shri Satej G. Kamat, with additional charge of Asst. Director of Agriculture (FT), Ela, Old Goa.

Shri Rajesh Dessai, Assistant Director of Agriculture shall also look after the duties of Assistant Director of Agriculture (FT), Ela, Old Goa on every Tuesday and Thursday, until further orders.

The above officers shall stand relieved from their respective posts w.e.f. 31-05-2018 (a.n.). They shall hand over the charge to the respective link officer and proceed for joining their new postings w.e.f. 01-06-2018.

No joining time will be allowed in case there is no change of residence.

By order and in the name of the Governor of Goa.

*Nelson X. Figueiredo, Director & ex officio Joint Secretary (Agriculture).*

Tonca-Caranzalem, 29th May, 2018.

**Order**

No. 2/14/95/Agri(Part)/Vol.II/54

Government is pleased to order the transfer of the following Assistant Agriculture Officers, Group "B" Gazetted of this Department to the offices indicated below against their names with immediate effect:

Sr. No.	Name of the officer	Place of present posting	Place of posting on transfer
1	2	3	4
1.	Smt. Sampatti U. Dhargalkar	Asst. Agriculture Officer, Zonal Agriculture Office, Mapusa	Zonal Agriculture Office, Pernem against the vacant post under B.H 2401-00-105-02 (NP).

## OFFICIAL GAZETTE — GOVT. OF GOA

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1	2	3	4
2.	Shri Sohan Uskaikar	Assistant Agriculture Officer, Zonal Agriculture Office, Pernem	Zonal Agriculture Office, Mapusa in place of Smt. Sampatti U. Dhargalkar, transferred.
3.	Shri Nilesh K. Vaigankar	Assistant Agriculture Officer, Zonal Agriculture Office, Mapusa	District Agriculture Office, North in place of Smt. Pallavi R. Shetye, transferred.
4.	Smt. Pallavi Rudresh Shetye	Assistant Agriculture Officer, District Agriculture Office, North	Zonal Agriculture Office, Mapusa in place of Shri Nilesh K. Vaigankar, transferred.
5.	Dr. Govind Parab	Assistant Agriculture Officer, Zonal Agriculture Office, Valpoi	Farmers Training Centre, Ela, Old Goa, in place of Smt. Sonia Mote, transferred.
6.	Smt. Nilima Y. Gawas	Assistant Agriculture Officer, Zonal Agricultural Office, Bicholim	Zonal Agricultural Office, Valpoi in place of Dr. Govind Parab, transferred.
7.	Smt. Shruti S. Dhupkar	Farm Manager, Krishi Vigyan Kendra, South Goa District	Zonal Agricultural Office, Bicholim in place of Smt. Nilima Y. Gawas, transferred.
8.	Shri Agresh Shirodkar	Assistant Agriculture Officer, Zonal Agricultural Office, Quepem	Farm Manager, Krishi Vigyan Kendra, South in place of Smt. Shruti S. Dhupkar, transferred.
9.	Shri Mahendra Pagi	Assistant Agriculture Officer, Zonal Agricultural Office, Canacona	Zonal Agricultural Office, Quepem in place of Shri Agresh Shirodkar, transferred.
10.	Shri Kirtiraj Naik Gaonkar	Assistant Agriculture Officer, District Agriculture Office, South	Zonal Agriculture Office, Canacona in place of Shri Mahendra Pagi, transferred.
11.	Shri Vishwanath Gawas	Assistant Agriculture Officer, Zonal Agricultural Office, Ponda	Zonal Agriculture Office, Satari against the vacant post under Budget Head 2401-00-001-02 (NP)-01 vacated by Shri Yeshwant K. Gawas w.e.f. 31-07-2017.
12.	Shri Krishnanath B. Naik	Asst. Agriculture Officer, Extension Section, Directorate of Agriculture, Tonca-Caranzalem	Zonal Agricultural Office, Ponda in place of Shri Vishwanath Gawas, transferred.
13.	Kum. Gauri Prabhudessai	Asst. Agriculture Officer, Zonal Agricultural Office, Sanguem	District Agricultural Office, South in place of Shri Kirtiraj Naik Goankar, transferred.
14.	Kum. Sonia Mote	Asst. Agriculture Officer, Farmers Training Centre, Ela, Old Goa	Extension Section, Directorate of Agriculture, Tonca-Caranzalem in place of Shri Krishnanath B. Naik, transferred.
15.	Smt. Siddhi S. Prabhu Gaonkar	Asst. Agriculture Officer, Government Agriculture Farm, Kalay	Zonal Agriculture Office, Sanguem in place of Kum. Gauri Prabhudessai, transferred.

The above officers shall stand relieved from their respective posts w.e.f. 31-05-2018 (a.n.). They shall hand over the charge to the respective link officer and proceed for joining their new postings w.e.f. 01-06-2018.

Smt. Siddhi S. Prabhu Gaonkar, Assistant Agriculture Officer shall not be entitled for joining period and TA/DA as transfer is as per her request.

No joining time will be allowed in case there is no change of residence.

By order and in the name of the Governor of Goa.

Nelson X. Figueiredo, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 29th May, 2018.

## Department of Civil Aviation

Directorate of Civil Aviation

**Order**

No. DOCA/EST/OSD(TECH)/21/2016-17/142

Read: Order No. DOCA/EST/OSD(TECH)/  
 /21/2016-17/213 dated 14th June, 2017.  
 Order No. DOCA/EST/OSD(TECH)/  
 /21/2016-17/690 dated 18th December,  
 2017.

Appointment of Commander Gurprit Pal Singh Bajwa (Rtd.) as OSD (Technical) on contract basis in the Directorate of Civil Aviation is hereby extended for a period of five months from 20-05-2018 to 31-10-2018. His monthly remuneration will be in terms of C.C.S. (fixation of pay of re-employed pensioners) Order, 1986 as well as the instruction contained on the Personnel Department's OM No. 10/1/77-PER dated 24-6-2015.

The expenditure shall be debited to the Budget Head 3053-Civil Aviation; 02-Airport; 800-Other Expenditure; 01-Establishment of Airport Cell (Plan); 01-Salaries under Demand No. 84 (Civil Aviation).

This issues with the approval of Personnel Department vide U.O. No. 1487/F dated 30-04-2018, approval of the Finance (R&C) Department vide U.O./FMS No. 1400031668 dated 21-05-2018.

By order and in the name of the Governor of Goa.

*Dr. S. Shanbhogue*, Director & ex officio Joint Secretary (Civil Aviation).

Porvorim, 31st May, 2018.



## Department of Elections

Goa State Election Commission

**Notification**

No. 4/18/Bye-Elec/MCS/2018-SEC/543

In exercise of the powers conferred on me under Section 36 of the Goa Municipalities Act, 1968, I, R. K. Srivastava, IAS (Retd.), Goa State Election Commissioner, hereby appoint the Mamlatdar/R.O. of Sanguem Taluka as the "Requisitioning Authority" and authorize him to requisition premises, vehicles etc. for the purpose of bye-election to Ward No. IX of Sanguem Municipal Council in Sanguem Taluka.

*R. K. Srivastava*, IAS (Retd.), Commissioner (Goa State Election Commission).

Panaji, 04th June, 2018.

## Department of Industries

**Corrigendum**

No. 3/67/2006-IND

Read: Notification No. 3/67/2006-IND/151 dated 10th May, 2018.

In the Notification referred in preamble cited above, at Sr. No. 1 the word "Director" shall be substituted to read as "Chairperson".

By order and in the name of the Governor of Goa.

*A. S. Mahatme*, Under Secretary (Industries).

Porvorim, 29th May, 2018.



## Department of Labour

**Notification**

No. 28/3/2018-LAB/351

The following award passed by the Labour Court-II at Panaji-Goa on 06-04-2018 in reference No.LC-II/C-IT/01/2017 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*A. S. Mahatme*, Under Secretary (Labour).

Porvorim, 30th May, 2018.

LABOUR COURT-II  
 GOVERNMENT OF GOA  
 AT PANAJI

(Before Shri Suresh N. Narulkar,  
*Hon'ble Presiding Officer*)

Case No. Ref. LC-II/C-IT/01/2017

Shri Vinayak Kolhe,  
 Rep. by the Gen. Secretary,  
 Kadamba Kamgar Union,  
 Panaji, Goa.

... Workman/Party I

V/s

M/s. Kadamba Transport  
 Corporation Ltd.,  
 Paraisa-de-Goa,  
 Alto Porvorim-Goa.

... Employer/Party II

Workman/Party I represented by Adv. Shri A. Kundaikar.

Employer/Party II represented by Adv. Shri P. Agarwal.

Panaji, Dated: 06-04-2018.

## AWARD

1. This award shall disposed off the Complaint dated 29-11-2016 filed by the Workman u/s 33-A of the I.D. Act, 1947.

2. It is the case of the Workman in short that he is working as 'conductor' and presently posted at Vasco depot. He stated that he raised a dispute pertaining to disparity in his pay fixation before the ALC, Panaji, Goa, which ended in failure and failure report was sent to the appropriate Government. He stated that pursuant to which, the Appropriate Government referred the reference in exercise of the powers conferred by Section 10 (1) (d) of the I.D. Act, 1947 for its adjudication before this Labour Court II. He stated that the said reference was registered as LC-II/IT/08/15. He stated that pursuant to the notice issued to the parties, the Employer has appeared and filed its written statement duly verified by its Managing Director. He stated that during the pendency of the aforesaid reference before this Labour Court II, the Personnel Manager, by his order dated 18-11-2016 recommended the name of the Workman for grant of second financial up-gradation in the pay band of Rs. 5200-20200+2800 grade pay under the Modified Assured Career Progression Scheme. He stated that by the said order, the basic pay of the Applicant is fixed at Rs. 9750+2800 grade pay w.e.f. 01-09-2008 notionally and monetary benefits from 20-09-2016. He stated that the said order dated 18-11-2016 further stated that on implementation of the MACP Scheme, the arrears would be paid to the workman w.e.f. 20-09-2016 only after receipt of funds from the Government. He stated that by passing the said order dated 18-11-2016, the Personnel Manager has violated the service conditions applicable to the Workman and therefore liable for the violation of the service conditions.

3. He stated that he was issued a charge-sheet dated 26-04-2007, wherein Shri M.V. Pednekar, ADM was appointed as Enquiry Officer and Shri Vinayak Naik, ATS was appointed as Presenting Officer. He stated that the enquiry was kept in cold storage without any hearing from 2007. He stated that suddenly the Employer resurrected the old issue by issuing an order dated 09-09-2014 by which an enquiry was re-opened and the Workman was imposed with the punishment of fine of Rs. 2000/-. He submitted that the enquiry was conducted in flagrant violation of principles of natural justice. He stated that he appeared before the Enquiry Officer. He stated that his statement was also recorded before recording the evidence of the management. He stated that it was imperative for the Enquiry Officer to direct the management to produce evidence and thereafter, the Workman had to produce the evidence in rebuttal.

4. He stated that however, in the instant case the Workman was called for enquiry and the same was closed within one day and a penalty was imposed by putting a fine of Rs. 2000/- vide order dated 20-09-2016 and he was made eligible for the recommendation of the second up-gradation under the MACP Scheme. He therefore submitted that the complaint be allowed and this Hon'ble Court be pleased to quash and set aside the order dated 20-09-2016 by which a penalty of Rs. 2000/- was imposed. The Workman further prayed to initiate appropriate proceedings against the Personnel Manager of the Employer for alteration of service conditions in violations of the MACP Scheme during the pendency of the dispute before the Labour Court II.

5. The Employer resisted the complaint by filing its reply on 14-06-2017 at Exb. 6. The Employer, as and by way of its preliminary objections, submitted that the complaint is liable to be dismissed as there is no alteration of service conditions as alleged by the complainant and that what is referred for adjudication is not a complaint as defined u/s 33-A of the I.D. Act.

6. The Employer stated that it is a Government Company registered under Section 617 of the Companies Act, 1956. The Employer stated that it is a State transport undertaking under the purview of the Motor Transport Act, 1988. The Employer admitted that the Workman is working as 'conductor' in its service. The Employer admitted that the dispute in a reference bearing No. IT/08/15 was raised by the General Secretary, Kadamba Kamgar Union vide its letter dated 14-08-2014 regarding non-implementation of 2nd up-gradation under the MACP Scheme to the Workman by them. The Employer stated that the matter was referred for conciliation which ended in failure on 11-12-2014. The Employer stated that as per para 15 of the said MACP Scheme if the financial up-gradation under MACP Scheme is deferred and not allowed after 10 years in a grade pay, due to the reasons of the employee being unfit or due to the departmental proceedings etc. this would have consequential effect on the subsequent financial up-gradation which would also differ to the extent of delay in the first financial up-gradation. The Employer stated that there were three departmental enquiries pending against the Complainant, one vide charge-sheet No. 127 dated 18-05-1996, second charge-sheet No. 789 dated 28-08-2001 and third charge-sheet No. 158 dated 26-04-2007. The Employer stated that the MACP Schemes are given in the circular dated 27-11-2012, wherein the eligibility for granting MACP is considered. The Employer stated that since the enquiries in all the aforesaid charge-sheets were pending against the Complainant,

financial up-gradation in the scale was differed by them. The Employer stated that on completion of the enquiry into the charge-sheet No. 127 dated 18-05-1996, order dated 11-04-2016 was issued to the complainant imposing a penalty of Rs. 2500/- . The Employer stated that similarly on completion of enquiry into the charge-sheet No. 789 dated 28-08-2001, an order dated 10-05-2016 was issued imposing a fine of Rs. 2000/- and into the charge-sheet No. 158 dated 26-04-2007, an order dated 20-09-2016 was issued imposing a penalty by way of fine of Rs. 2000/- . The Employer stated that after the disposing off the departmental enquiries against the complainant his case for second financial up-gradation in the MACP was placed before the departmental screening committee and the departmental screening committee was pleased to recommend the complainant for grant of second financial up-gradation and accordingly an order dated 18-11-2016 was issued to him. The Employer submitted that issuance of order dated 18-11-2016, thereby granting benefits to the complainant does not amounts to alteration of his service conditions to the prejudice of the complainant. The Employer therefore submitted that the complainant is therefore not entitled to any relief as claimed in the complaint and the complaint is liable to be dismissed as not maintainable. The Employer denied the overall case as pleaded by the complainant and prayed for dismissal of the present complaint.

7. Thereafter an opportunity was given to the complainant to file his rejoinder to the written statement filed by the Employer. However, Ld. Adv. Shri A. Kundaikar representing the Workman submitted that he does not wish to file any re-joinder.

8. Based on the pleadings filed by the respective parties' hereinabove, this Labour Court II framed the following issues on 24-07-2017 at Exb. 7.

1. Whether the Workman/Party I proves that the Employer contravened the provisions of Section 33 of the I.D. Act, 1947 pending a reference bearing No. LC-II/IT/08/15 before this Labour Court II?
2. Whether the Employer/Party II proves that the present complaint filed by the Workman is liable to be dismissed in view of the reasons stated in para 2 (a) and (b) as well as para 10 of its written statement?
3. Whether the Workman/Party I is entitled to any relief?
4. What order? What Award?

9. My answers to the aforesaid issues are as under:

- (a) Issue No. 1 : In the negative.
- (b) Issue No. 2 : In the affirmative.
- (c) Issue No. 3 and 4 : As per final order.

#### REASONS

I have heard the oral arguments of Ld. Adv. Shri A. Kundaikar, appearing for the Workman as well as Ld. Adv. Shri P. Agarwal, appearing for the Employer.

10. Ld. Adv. Shri A. Kundaikar, appearing for the complainant, during the course of his oral arguments submitted that the complainant is working as conductor and presently posted at Vasco depot. He submitted that the complainant had raised a dispute pertaining to disparity in his pay fixation before the ALC, Panaji, Goa, which ended in failure. He submitted that pursuant to the failure report submitted to the Appropriate Government, it has issued a reference u/s 10 (1) (d) of the I. D. Act, 1947 for its adjudication to the Labour Court II. He submitted that after receipt of the reference, the Labour Court II registered the said reference as LC-II/IT/08/15 and due notice was issued to the parties. He submitted that pursuant to the notice issued to them, the Employer filed its written statement duly verified by its managing director. He submitted that during the pendency of the aforesaid reference, the Personnel Manager of the Employer issued an order dated 18-11-2016, by which the complainant was granted second up-gradation in the pay band of Rs. 5200-20200+2800 grade pay under the MACP Scheme and his pay was fixed at Rs. 9750+Rs. 2800/- grade pay w.e.f. 01-09-2008 notionally and monetary benefits from 20-09-2016. He submitted that by passing an order dated 18-11-2016, the Employer violated the service conditions as stated in Section 33 of the I.D. Act, 1947. He therefore submitted that the complaint be therefore be allowed and necessary action deemed fit be taken against the Employer.

11. Per contra, Ld. Adv. Shri P. Agarwal, representing the employer, during the course of his oral arguments submitted that it is not in dispute that the complainant is working as conductor and presently posted at Vasco depot. He admitted that the complainant had raised a dispute pertaining to disparity in his pay fixation before the ALC, Panaji, Goa, which ended in failure. He admitted that the Appropriate Government had issued a reference for its adjudication to this Labour Court II in exercise of its power u/s 10 (1) (d) of the I.D. Act, 1947. He submitted that based upon the said reference, this court registered the said reference as case No. LC-II/IT/08/15 and notice was issued to the parties. He submitted that pursuant

to the aforesaid notice, the Employer also filed its written statement. He submitted that pending the aforesaid reference, the Employer was pleased to grant second financial up-gradation under the MACP scheme to the complainant. He submitted that the second financial up-gradation under the MACP scheme was differed to the complainant on account of three departmental enquiries pending against him. He submitted that after disposing off the said three departmental enquiries, the case of the complainant was placed before its departmental screening committee, who in turn pleased to recommend the complainant for grant of second up-gradation and accordingly, order dated 18-11-2016 was issued to him. He submitted that by issuing order dated 18-11-2016, the basic pay of the complainant was increased and fixed at Rs. 5200-20200+Rs. 2800/- grade pay w.e.f. 01-09-2008 notionally and monetary benefits from 20-09-2016. He submitted that the complainant had already availed an arrears accrued towards the second financial up-gradation under the MACP Scheme. He therefore submitted that granting the second financial up-gradation to the complainant under the MACP Scheme does not prejudicially alter the conditions of service of the Workman. He therefore submitted that the complaint filed by the complainant be dismissed with heavy cost.

I have carefully perused the entire records of the present case. I have also carefully considered the oral arguments advanced by the Ld. Advocates appearing for the respective parties and is of the firm opinion as under.

**12. Issue No.1 and 2:** Undisputedly, the complainant is in the employment of the Employer and has been posted at Vasco depot. The complainant raised a dispute pertaining to the disparity in his pay fixation before the Asstt. Labour Commissioner, Panaji, Goa, which ended in failure. The failure report was submitted to the Appropriate Government. The Appropriate Government issued a reference to this Labour Court II for its adjudication in exercise of the powers conferred by Section 10 (1) (d) of the I.D. Act, 1947. After receipt of the aforesaid reference, this court registered the said reference as case No. LC-II/IT/08/15 and notice was issued to the parties. In pursuance to the notice issued to the parties, the Employer appeared before the court and filed its written statement on 22-02-2016. Pending the aforesaid reference for its adjudication, the Personnel Manager of the Employer issued an order dated 18-11-2016 by which the complainant was granted second financial up-gradation under the MACP Scheme on completion of 20 years in the service w.e.f. 01-09-2008 and the basic pay of the Workman was fixed at Rs. 5200-20200+Rs. 2800/-

grade pay. The basic pay of the complainant is fixed at Rs. 9750/- plus Rs. 2800/- grade pay w.e.f. 01-09-2008 notionally and monetary benefits from 20-09-2016. The complainant accepted the said order without any protest and has also availed the arrears accrued therefrom.

**13.** By the present complaint, the complainant claims to be in violation of Section 33-A of the I.D. Act, 1947 by the Employer by issuing the said order dated 18-11-2016 thereby granting him MACP Scheme. The pre-condition for the grant of the Section 33-A of the said Act is that the Workman shall prove that the Employer has Contravened Section 33 of the said Act. Section 33 (1) of the said Act states that during the pendency of any conciliation proceedings before the conciliation Officer or a board of any proceedings before (an arbitrator or) a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall—

- (a) In regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings or
- (b) For any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute,

Save with the express permission in writing of the authority before which the proceeding is pending.

**14.** In the case of **Stanley Mendex v/s. Giovanola Binny Ltd. and Ors., reported in (1968) II LLJ 470**, the Hon'ble High Court of Kerela in para 5 of its judgment has held as under:

“5. In a complaint made to the tribunal under Section 33A, the primary question that falls to be considered by tribunal is whether there has been a contravention by the employer of the provisions of Section 33 of the Act, and it is only in case it is found that there has, in fact, been such contravention that occasion arises for the tribunal to embark upon a further adjudication of the complaint on its merits; in other words, the tribunal has to be satisfied initially that there has, in fact, been a contravention by the employer of the provisions of Section 33 by effecting during the pendency of other proceedings before it, an alteration to the prejudice of the workman concerned, of the conditions of his service which were applicable to him immediately before the commencement of such proceedings”.

15. The principle laid down by the Hon'ble High Court of Kerala is well established and also applicable to the case in hand. Applying the law laid down by the Hon'ble High Court of Kerala, in the case in hand, pending the reference bearing No. LC-II/IT/08/15, before this Labour Court II for its adjudication pertaining to the disparity in the pay fixation of the complainant, the Employer passed an order dated 18-11-2016 by which the complainant was granted second up-gradation under the MACP Scheme and his pay was fixed at Rs. 5200-20200+Rs. 2800/- grade pay and his pay scale was fixed at Rs. 9750/- plus Rs. 2800/- grade pay w.e.f. 01-09-2008 notionally and monetary benefit from 20-09-2016. Further, the complainant has also availed the arrears accrued therefrom. The said order granting the second financial up-gradation to the complainant is beneficial to him and cannot be said to be prejudicial or alters his conditions of service. Even otherwise, the complainant has not accepted the said order dated 18-11-2016 under protest. In the circumstances, the order dated 18-11-2016 granting second financial up-gradation to the complainant cannot be said to be prejudicial altering his conditions of service and as such the Employer cannot be said to be contravened section 33 of the said Act, which is the mandatory requirement of Section 33-A of the I.D. Act, 1947. In view of above, it is held that the complainant failed to prove that the Employer has contravened the provisions of Section 33 of the I.D. Act, 1947, pending a reference bearing No. LC-II/IT/08/15 before this Labour Court II. It is held that the Employer proved that there does not exist any alteration of conditions of service by the Employer so as to file the complaint u/s 33-A of the I.D. Act, 1947. The complaint filed by the complainant shall therefore be dismissed. The issue No. 1 is therefore answered in the negative and the issue No. 2 is answered in the affirmative.

In view of the above, I proceed to pass the following order.

#### ORDER

The complaint filed by the complainant is hereby dismissed. The Workman is no entitled to any relief.

No Order as to Cost.

Sd/-

(Suresh N. Narulkar),  
Presiding Officer,  
Labour Court-II.

#### Notification

No. 28/3/2018-LAB/352

The following award passed by the Labour Court-II, at Panaji-Goa on 03-04-2018 in reference No. LC-II/IT/08/2015 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

A. S. Mahatme, Under Secretary (Labour).

Porvorim, 30th May, 2018.

#### LABOUR COURT-II

GOVERNMENT OF GOA  
AT PANAJI

**(Before Shri Suresh N. Narulkar,  
Hon'ble Presiding Officer)**

Case No. Ref. LC-II/IT/08/2015

Shri Vinayak Kolhe,  
Rep. by the Gen. Secretary,  
Kadamba Kamgar Union,  
Panaji, Goa.

... Workman/Party I

V/s

M/s. Kadamba Transport  
Corporation Ltd.  
Paraisa-de-Goa,  
Alto Porvorim-Goa.

... Employer/Party II

Workman/Party I represented by Adv. Shri A. Kundaikar.

Employer/Party II represented by Adv. Shri P. Agarwal.

Panaji, dated: 03-04-2018.

#### AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 18-06-2015, bearing No. 28/16/2015-Lab/623, referred the following dispute for adjudication to this Labour Court II, Panaji-Goa.

"(1) Whether the action of M/s. Kadamba Transport Corporation Ltd., Porvorim, Goa, in not granting the second financial up-gradation under the Modified Assured Career Progression Scheme (MACPS), to Shri Vinayak Kolhe, Conductor, is legal and justified?

(2) If not, what relief the Workman is entitled to?"

2. On receipt of the reference, a case was registered under No. LC-II/IT/08/15 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party-I (for short 'Workman'), filed his statement of claim on 27-02-2014 at Exb-5. The facts of the case in brief as pleaded by the Workman are that he is the member of the Kadamba Kamgar Union, who is espousing his cause in respect of anomaly in his pay fixation. He stated that he is employed with the Employer/Party II (for short, 'Employer') as Conductor in the month of December, 1987 and presently posted at Vasco depot. He stated that he was confirmed in service in the month of June, 1988. He stated that on account of disparity in pay fixation, there is cascading effect in the service tenure as he is deprived of various scales adopted from time to time. He stated that the workmen placed in the similar cadre are drawing higher scale than him, which resulted in disparity in the scale. He stated that as per the recommendations of fifth pay commission, his pay of scale was fixed and placed in scale of Rs. 3050-75-3950-80. He stated that on recommendation of departmental promotional committee, he was granted Time Bound Promotional Scale (TBPS) of Rs. 4000-100-6000 and was designated as conductor (TBPS) vide order dated 31-05-2010. He stated that consequent upon the adoption of the sixth pay scale of the Central Civil Service Rules, 2008, his pay band and grade pay was fixed at Rs. 5200-20200+2400 and his pay in the revised pay was fixed at Rs. 8370 and grade pay of Rs. 2400 by order dated 31-05-2010. He stated that he was drawing a basic pay of Rs. 4500/-, dearness allowance of Rs. 2250/- @ 24%, in fact, he was entitled for pay band of Rs. 8370/- and grade pay of Rs. 2400/-, thereby making a difference of Rs. 10,770/- for the month of January. He stated that he was entitled to Rs. 31,963/- however, he was paid Rs. 26,325/- in the TBPS, thereby making difference of Rs. 6,917/- for the month of January, 2006 till March, 2006. He stated that the Employer was pleased to implement MACP Scheme, which is in suppression of ACP scheme. He stated that in accordance with the said scheme, he is entitled for three up-gradation at three intervals of 10-20-30 years. He stated that the Employer has not appointed any screening committee at the time of implementation of the MACP scheme and he was made eligible in general. He stated that he was confirmed in services in the month of June, 1988 and therefore, he was eligible

for the first up-gradation in the month of June, 1998 and was eligible for second up-gradation in the year 2006. He submitted that he remained in the post of conductor from the date of his appointment till date without any promotion and therefore he was entitled for placement in immediate next higher grade pay in hierarchy of the recommended revised pay band and grade pay after completion of 20 years in the same post. He submitted that he was granted the first financial up-gradation under the MACP scheme and therefore was legally entitled for second up-gradation in the grade pay of Rs. 2,800/- after completion of 18 years of service in the same post, which was denied to him thereby causing disparity in his pay fixation. He submitted that he is grossly discriminated against the whims and caprices of unmoving bureaucracy. The Workman, therefore prayed for passing an award that there exists an anomaly in his pay fixation and to release the monitory benefits w.e.f. the date of eligibility with interest @ 12% p.a.

3. The Employer objected to the aforesaid claim of the Workman by filing its written statement dated 22-02-2016 at Exb.12. The Employer, as and by way of its preliminary objection, submitted that the reference made u/s 10 (1) (d) of the I.D. Act to the Industrial Tribunal constituted under Section 7-A of the same Act and as such this Labour Court constituted u/s 7 of the said Act has no jurisdiction to entertain and try the reference, that there is no industrial dispute exists between the parties as defined u/s 2 (k) of the I.D. Act, 1947, that the reference has been made by the Government of Goa, without any material on record in haste and without application of mind and that the reference is premature as the Workman has directly approached before this court without exhausting the other remedies available to him and that as per Clause 39 of its Certified Standing Orders, the Workman is having the remedy of appeal before the Appellate Authority before approaching the conciliation machinery and thereafter this Hon'ble Court.

4. The Employer stated that it is a Government Company registered u/s. 617 of the Companies Act, 1956. The Employer stated that it is a state transport undertaking under the purview of Motor Transport Act, 1988 and is engaged in the public passenger services in the State of Goa as well as in the neighbouring States like Maharashtra and Karnataka. The Employer stated that the Workman has not only suppressed the material facts from this Labour Court, but also has made misleading statements. The Employer stated that its employees

are not the employees of the Government of Goa. The Employer stated that it being a separate legal entity altogether different of Government of Goa, the service benefits being granted by the Government of Goa to its employees, do not become automatically applicable to the employees of the Corporation. The Employer stated that its employees are governed by its own Certified Standing Orders. The Employer stated that the service condition applicable to its employees are specified in its Certified Standing Orders as well as Memorandum of Settlement drawn between its management and its employees union from time to time. The Employer stated that any benefits which are required to be extended to its employees, are required to be extended by the resolution of its board of directors or through the settlement arrived at between its management and its workmen's union.

5. The Employer stated that the workmen represented by the union raised a dispute before the conciliation authority demanding the implementation of the recommendation of the sixth central pay commission as made applicable to the employees of the Government of Goa. The Employer stated that the dispute was taken in conciliation and an amicable settlement was arrived between both the parties and a memorandum of settlement dated 30-04-2010 u/s. 12 (3) r/w Section 18 (3) of the I.D. Act, 1947 was signed. The Employer stated that in accordance with the O.M. No. 8/7/2008-Fin(R&C) dated 15-05-2012, which is also a part of recommendations of sixth Central Pay Commission, it has placed the proposal before the board seeking approval for applying the benefits of the said O.M. to the eligible workmen. The Employer stated that its board was pleased to approve the said proposal vide resolution No. 82/2012 subject to the clarification from the Government and thereafter the pay of the Workman including other eligible workmen were revised vide order dated 10-06-2013 in accordance with the said O.M. dated 15-05-2012. The Employer stated that the sixth pay central commission in para 6.1.15 of its report had recommended Modified Assured Career Progression Scheme (MACPS). The Employer stated that as per the resolution No. 110/11 passed by its board of directors in its 176th meeting, MACPS was adopted to its eligible employees who have completed 10-20-30 years of regular service. The said scheme was applied to its employees w.e.f. 01-08-2009 notionally and monetary benefits w.e.f. 01-01-2012.

6. The Employer stated that on the recommendation of the departmental promotion committee, its eligible employees were extended the benefits of MACPS. The Employer stated that at the relevant time, there were three departmental enquiries pending against the workman, one vide charge-sheet No. 127 dated 18-05-1996, second charge-sheet No. 789 dated 28-08-2001 and third charge-sheet No. 158 dated 26-04-2007. The Employer denied the overall case as pleaded by the workman and prayed for dismissal of the present reference.

7. Thereafter, the Workman filed his rejoinder on 14-03-2016 at Exb.13. The Workman, by way of his rejoinder, reiterates all the submissions and averments made by him in his claim statement to be true and correct and denies all the statements and averments made by the Employer in their Written Statement, which are contrary and inconsistent with the statements and averments made by him.

8. Based on the pleadings filed by the respective parties, this court framed the following issues on 06-07-2016 at Exb. 15.

1. Whether the Workman/Party I proves that the action of the Employer Corporation in not granting him the second financial up gradation is illegal and unjustified?
2. Whether the Employer/Party II proves that the present order of reference is not maintainable in law in view of the reasons mentioned in para 2 (a) to 2 (d) of the Written Statement?
3. Whether the Workman/Party I is entitled to any relief?
4. What Order? What Award?

9. My answers to the aforesaid issues are as under:

- (a) Issue No. 1 : In the negative.
- (b) Issue No. 2 : In the negative
- (c) Issue No. 3 & 4 : As per final order.

#### REASONS

I have heard the oral arguments of Ld. Adv. Shri A. Kundaikar appearing for the Workman as well as Ld. Adv. Shri P. Agarwal appearing for the Employer.

10. Ld. Adv. Shri A. Kundaikar, representing the Workman during the course of his oral arguments submitted that the Workman was appointed as conductor by the Employer in the month of December, 1987 and his services has been

confirmed in June, 1988. He submitted that as per recommendation of fifth pay central commission made applicable to the Employer Corporation, the pay scale of the Workman was fixed to Rs. 3050-75-3950-80-4590. He submitted that on recommendation of departmental promotional committee, the Workman was granted TBPS scale of Rs. 4000-100-6000 and he was designated as conductor (TBPS) vide order dated 31-05-2010. He submitted that consequent upon the adoption of sixth pay central commission scale, the pay scale of the workman was fixed to Rs. 5200-20200+Rs. 2400/- as grade pay and his pay in the revised scale was fixed at Rs. 8370/- and grade pay of Rs. 2400/- by order dated 31-05-2010. He submitted that the workman was drawing a basic pay of Rs. 4500/- and dearness allowance of Rs. 2250/- @ 24%. He submitted that in fact the workman was entitled for pay band of Rs. 8370/- and grade pay of Rs. 2400/- thereby making a difference of Rs. 10,770/- for the month of January. He submitted that the Workman was entitled for Rs. 31,963/-, however, he was paid Rs. 26,325/- in TBPS, thereby making a difference of Rs. 6917/- for the month of January, 2006 till March, 2006. He submitted that the Employer was pleased to implement MACP Scheme in suppression of its ACP scheme. He submitted that in accordance with the said scheme, he was entitled for three up-gradation at three intervals of 10-20-30 years of service. He submitted that the workman was confirmed in service in the month of June, 1988 and therefore, he shall be eligible for first up-gradation in the year 1998 and for second up-gradation in the year 2006 in accordance with the MACP Scheme. He submitted that as the workman remained in the post of conductor from the date of his appointment till date without any promotion, therefore he was entitled for second financial up-gradation under the MACP Scheme. He therefore submitted that the action of the Employer in not granting second financial up-gradation under the MACP Scheme to the Workman be held as illegal and unjustified and the Workman be ordered to give second financial up-gradation in the MACP Scheme.

11. Per contra, Ld. Adv. Shri P. Agarwal, representing the Employer, during the course of his arguments submitted that admittedly the Workman was appointed as conductor by the Employer in the month of December, 87 and confirmed in the service of the Employer in the month of June, 1988. He submitted that the Workman was not issued any promotion from the date of his appointment till date. He submitted that the Employer Corporation has adopted the

sixth Central Pay Commission by signing memorandum of settlement dated 30-04-2010 u/s. 12 (3) r/w Section 18 (3) of the I.D. Act, 1947. He submitted that the board of directors of the Employer was also pleased to approve in principle the O.M. dated 15-05-2012, which is also a part of the recommendation of sixth central pay commission in its meeting. He submitted that the Employer also adopted MACP scheme which was part of sixth central pay commission report by taking necessary resolution in its board of directors meeting. He submitted that there were three departmental enquiries were pending against the Workman, one charge-sheet No. 127 dated 18-05-1996, second charge-sheet No. 789 dated 28-08-2001 and third charge-sheet No. 158 dated 26-04-2007. He submitted that in respect of the charge-sheet dated 11-04-2016, the departmental enquiry was closed by imposing a punishment of fine of Rs. 2500/- vide order dated 01-04-2016. He submitted that in respect of the charge-sheet dated 28-08-2001, the departmental enquiry was closed by imposing a punishment of fine of Rs. 2000/- vide order dated 10-05-2016. He submitted that in respect of the charge-sheet dated 26-04-2007, the departmental enquiry was closed by imposing a punishment of fine of Rs. 2000/- vide order dated 20-09-2016. He submitted that after closing the departmental enquiries as above, the case of the Workman was placed before departmental screening committee and the said departmental screening committee was pleased to recommend the workman for second up-gradation in the pay band of Rs. 5200-20200+2800 grade pay under the MACP scheme in terms of its board resolution No. 110/11 and circular dated 27-11-2012. He submitted that the Workman was paid MACP arrears of Rs. 3333/-. He therefore submitted that as the Workman has already been issued second up-gradation in the MACP scheme vide order of the Employer dated 18-11-2016 and his basic was fixed at Rs. 9750+2800 grade pay with effect from 01-09-2008 notionally and monetary benefits from 20-09-2016, the reference be answered accordingly.

I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions advanced by the Ld. Advocates for the respective parties and is of the considered opinion as under.

12. *Issue No. 1:* Undisputedly, the Workman under reference was appointed as conductor by the Employer in the month of December, 1987 and he was confirmed in services in June, 1988. As per the recommendation of fifth pay commission, the

pay scale of the workman was fixed to Rs.3050-75-3950-80-4590. Further, on recommendation of departmental promotional committee, the Workman was granted TBPS and his pay scale was fixed to Rs. 4000-100-6000 and he was designated as conductor (TBPS) vide order of the Employer dated 31-05-2010. Consequent, upon the adoption of sixth central pay commission by the Employer, the Workman was placed under the pay scale of Rs. 5200-20200+Rs. 2400 grade pay. The pay of the workman in the revised scale was fixed to Rs. 8370+Rs. 2400 grade pay by order of the Employer dated 31-05-2010.

13. The workmen represented by the union raised a dispute before the conciliation authority demanding the implementation of the recommendation of the sixth central pay commission as made applicable to the Government employees. The dispute was taken into conciliation and an amicable settlement was arrived in between both the parties and memorandum of settlement dated 30-04-2010 was signed u/s 12 (3) r/w Section 18 (3) of the I.D. Act, 1947. The board of directors of the Employer also approves in principle the O.M. No. 8/7/2008-Fin(R&C) dated 15-05-2012, which was also part of recommendation of sixth central pay commission vide resolution No. 82/2012 subject to the clarification from the Government and thereafter the pay of the Workman including other eligible workmen were revised vide order dated 10-06-2013 in accordance with the said O.M. The evidence on record indicates that the board of directors of the Employer Corporation also adopted the MACP Scheme vide resolution No. 110/11. In terms of the said scheme, an employee is entitled for financial up-gradation at the intervals of 10, 20 and 30 years of continuous and regular service. Further, in terms of Clause 14 of the said MACP Scheme, if the financial up-gradation under the said scheme is deferred and not allowed after 10 years in a grade pay, due to the reasons of the employee being unfit or due to the departmental proceedings etc. this would have consequential effect on the subsequent financial up-gradation which would also differ to the extent of delay in the first financial up-gradation.

14. The Employer contended that the delay in granting the second financial up-gradation to the Workman under reference was on account of pendency of three departmental enquiries. The Employer has examined its Personnel Manager, Shri V.D. Harmalkar and produced on record certain documentary evidence in support of its oral evidence.

15. The evidence on record indicates that three departmental enquiries were pending against the workman, one in respect of charge-sheet No. 127 dated 18-05-1996, second in respect of charge-sheet No. 789 dated 28-08-2001 and third in respect of charge-sheet No. 158 dated 26-04-2007. The evidence on record indicates that in respect of the charge-sheet dated 11-04-2016, the departmental enquiry was closed by imposing a punishment of fine of Rs. 2500/- vide order dated 01-04-2016. The evidence on record indicates that in respect of the charge-sheet dated 28-08-2001, the departmental enquiry was closed by imposing a punishment of fine of Rs. 2000/- vide order dated 10-05-2016. The evidence on record indicates that in respect of the charge-sheet dated 26-04-2007, the departmental enquiry was closed by imposing a punishment of fine of Rs. 2000/- vide order dated 20-09-2016. The evidence on record indicates that after closing the departmental enquiries as above, the case of the Workman was placed before departmental screening committee and the said departmental screening committee was pleased to recommend the workman for second up-gradation in the pay band of Rs. 5200-20200+2800 grade pay under the MACP scheme in terms of its board resolution No. 110/11 and circular dated 27-11-2012 and accordingly the workman was issued an order dated 18-11-2016 by which he was granted second financial up-gradation in the MACP Scheme on completion of 20 years in the service w.e.f. 01-09-2008. The evidence on record indicates that on account of pendency of departmental enquiry instituted against the workman, his recommendations were differed by the departmental screening committee. The evidence on record indicates that the Workman was paid an arrears of Rs. 3333/- towards his second up-gradation under the MACP Scheme.

16. Ld. Adv. Shri A. Kundaikar, representing the workman submitted that the said three enquiries pending against the Workman were re-opened arbitrarily by pointing out Clause 11 of the office memorandum dated 19-05-2009, which is part and parcel of the document at Exb. 31-colly. The said Clause 11 of the office memorandum states that "it is clarified that no past cases would be re-opened....." However, I do not find any material evidence that the Employer has re-opened the said three enquiries pending against the Workman. On the contrary, the Workman in his cross-examination, admitted that the enquiries in respect of all the three aforesaid charge-sheets at Exb. 21-colly (cross) were pending against him and that since the enquiry against all the aforesaid three

charge-sheets were pending against him, his financial up-gradation in the scale was deferred by the corporation. The aforesaid evidence of the Workman clearly suggest that the all the three enquiries were not re-opened against him. Hence, contention of Ld. Adv. Shri A.V. Kundaikar appearing for the Workman is devoid of merits and as such it is rejected.

17. The evidence on record indicates that after completion of all the three enquiries against the Workman, his case was placed before the departmental screening committee, who in turn was pleased to recommend the name of the Workman for grant of second financial up-gradation. Accordingly, the Workman has been issued second up-gradation in the MACP scheme vide order of the Employer dated 18-11-2016 and his basic was fixed at Rs. 9750+2800 grade pay with effect from 01-09-2008 notionally and monetary benefits from 20-09-2016. It is therefore held that the Workman failed to prove that the action of the Employer Corporation in not granting him second financial up-gradation in MACP Scheme is illegal and unjustified. The issue No. 1 is therefore answered in the negative.

18. *Issue No. 2:* The Employer, as and by way of its preliminary objection, pleaded that the reference made u/s 10 (1) (d) of the I.D. Act to the Industrial Tribunal constituted under Section 7-A of the same Act and as such this Labour Court constituted u/s 7 of the said Act has no jurisdiction to entertain and try the reference, that there is no industrial dispute exists between the parties as defined u/s 2 (k) of the I.D. Act, 1947, that the reference has been made by the Government of Goa, without any material on record in haste and without application of mind and that the reference is premature as the Workman has directly approached before this court without exhausting the other remedies available to him and that as per Clause 39 of its Certified Standing Orders, the Workman is having the remedy of appeal before the Appellate Authority before approaching the conciliation machinery and thereafter this Hon'ble Court.

19. As the present reference has been issued by the Appropriate Government in exercise of its powers conferred by Clause (c) of sub-section (1) of Section 10 of the I.D. Act for its adjudication to this Labour Court II, this court has every jurisdiction to try and entertain the present reference.

20. Undisputedly, the present dispute has been referred by the Appropriate Government pertaining to the legality and justifiability of the action of the

Employer in not granting the second financial up-gradation under the MACP scheme and if not the relief entitled to the workman.

The term 'industrial dispute' has been defined u/s 2 (k) of the I.D. Act, 1947 and "*it means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, or any person*"

21. In the case in hand, the present dispute has been raised by the Workman against the Employer pertaining to his terms of employment and as such it is an 'industrial dispute' within the meaning of Section 2 (k) of the I.D. Act, 1947. This court has every jurisdiction to try and entertain the reference, when there exists an industrial dispute between the parties. In view of above, I do not find any merits in any of the preliminary objections raised by the Employer. It is therefore held that the Employer failed to prove that the present order of reference is not maintainable in law in any of the reasons mentioned in para 2 (a) to 2 (d) of its written statement. The issue No. 2 is therefore answered in the negative.

22. *Issue No. 3:* While deciding the issue No. 1 hereinabove, I have discussed and come to the conclusion that the Workman has been issued by the Employer the second financial up-gradation under the MACP Scheme and as such the question of granting any relief to the Workman, does not arise. The issue No. 3 is therefore answered in the negative.

In view of the above, I proceed to pass the following order:

#### ORDER

1. It is hereby held that the action of M/s. Kadamba Transport Corporation Ltd., Panaji, Goa, in not granting the second financial up-gradation under the Modified Assured Career Progression Scheme (MACPS), to Shri Vinayak Kolhe, Conductor, is legal and justified.

2. The Workman, Shri Vinayak Kolhe is not entitled to any relief.

3. No Order as to Cost.

Inform the Government accordingly.

Sd/-

(Suresh N. Narulkar),  
Presiding Officer,  
Labour Court-II.

## Department of Law &amp; Judiciary

Law (Establishment) Division

**Order**

No. 8/16/2017-LD (Estt)(Part) File/1014

Read: i) Government Order No. 8-2-2013-LD (Estt)/1347 dated 01-08-2013.

ii) Government Order No. 8/16/2017-LD (Estt.) (Part File)/898 dated 17-05-2018.

In supersession of Order issued by the Government read above at Sr. No. 2, the Government is pleased to dissolve the Committee constituted vide Government Order referred at Sr. No. 1 w.e.f 17-05-2018.

The onus of complying FEMA Regulations are on the parties to the transaction i.e. Vendor, Purchaser, Confirming Party, etc. It shall not be the endeavour of the Civil Registrars-cum-Sub-Registrars to scrutinize the compliance of FEMA Regulations.

If any of the transacting party is NRI/OCI/PIO/Foreign National, then a specific averment needs to be made in the instrument proposed to be registered that the land under transaction is non-agricultural land and that they own the responsibility for the said averment that their transaction is in compliance of FEMA/R.B.I. guidelines.

The Registering Authority shall not be responsible to authenticate or verify the veracity of averment or declaration or to check compliance of FEMA Regulations. The Civil Registrars-cum-Sub-Registrars should ensure only compliance of provisions of Registration Act and Rules.

By order and in the name of the Governor of Goa.

*Diwan Rane, Under Secretary (Estt.) Link.*

Porvorim, 1st June, 2018.

**Order**

No. 8-25-2016-LD(Estt)/1010

Whereas, the Government vide Notification No. 5-40-2000-LD(Estt.) dated 24-10-2000, appointed Shri Govind Usno Bhobe, Advocate, as a Notary for a period of five years with effect from 24-10-2000 for the area of Tiswadi taluka (hereinafter called as the "Notary") and Government has renewed the Practice of above Notary every five years i.e. for the year 2005, 2010 and 2015;

And whereas, vide letter No. 8-25-2016-LD(Estt.)/2151 dated 21-12-2016, this department had forwarded the complaint along with vide Form XIII dated 20-06-2016 with enclosures filed by Shri Indresh Advani (Complainant) against Mr. Govind U. Bhobe, Advocate and Notary (Respondent) and reply of the Respondent, wherein the State Registrar was requested to conduct an inquiry under Rule 13(6) of the Notaries Rules, 1956;

And whereas, vide the above complaint, the complainant has stated that on 01-06-2015 one Eknath Mapari presented to the Respondent a forged/counterfeit declaration dated 22-06-2006 of Mr. Albino Messias Gomes and Mrs. Belmira Rita Gomes and that the Respondent falsely certified and attested the said declaration as a True Copy of the Original without having seen the Original. The declaration was subsequently registered under Serial No. 3490/15 dated 01-06-2016. Vide letter No. 3/1/55/18-Registration/85 dated 08-05-2018, the State Registrar has stated that he has given an exhaustive hearing to both the parties and all opportunities to put their case during course of inquiry;

And whereas, the State Registrar has stated that Respondent in his reply confessed and admitted in para 8 of his reply to the complaint filed before the Law Secretary on 28-11-2016. The said statement is verified by the Respondent before a Notary to be true and nothing false in it and the Respondent in para 8 has stated that he allows the Clerk or Secretary to verify the photocopy with the original, affix necessary stamps, put seal, enter the same in the register and after completing all the formalities send for the signature to him. Such act on the part of the Notary is not only the misconduct but admission of irresponsibility, lack of dedication and sincerity;

And whereas, the State Registrar has pointed out that the Notary Laws neither explicitly nor implicitly recognizes of any of the function of the Notary to be carried out by the clerical or secretarial staff attached to the office of the Advocate conferred with Notary powers. The admission on the part of the Notary that he allows the Secretary to verify the document has shown disregard to the august and noble post coupled with duty having sanctity as Notary.

And whereas, the Competent Authority has closed the proceedings in Inquiry Report conclusively stating that although certain doubts and ambiguities remain in the submissions of the complainant, the admission on the part of the Respondent as referred above is very clear that

there is all the probability of lack of due diligence, dedication and sincerity on the part of the said Notary which is not in the interest of Law and society for which the Respondent is conferred with the powers the Notary.

And whereas, the Government considering the Inquiry Report of the State Registrar, has decided to suspend the Notary from practice for a period of two months;

Now, therefore, in pursuance of Rule 13(12)(b)(ii) of the Notaries Rules, 1956, the Government of Goa hereby suspends the Notary, Shri Govind Usno Bhobe from practice for a period of two months with effect from 01-06-2018 to 31-07-2018.

By order and in the name of the Governor of Goa.

*Diwan N. Rane, Under Secretary (Law) (Estt.) link.*

Porvorim, 1st June, 2018.



### Department of Personnel

#### Order

No. 7/21/2017-PER/1730

Consequent upon the Order No. 14020/01/2018.UTS-I dated 12-02-2018 issued by Ministry of Home Affairs, New Delhi, Shri Sanjay Goel, IAS, stands relieved from the Administration of Goa Government w.e.f. 31-05-2018 (a.n.) so as to take up the new assignment at Government of NCT, New Delhi.

By order and in the name of the Governor of Goa.

*Harish N. Adconkar, Under Secretary (Personnel-I).*

Porvorim, 30th May, 2018.

#### Order

No. 13/17/2016/PER/1731

Governor of Goa is pleased to grant extension in service to Shri S. P. Singnapurkar, Junior Scale Officer of Goa Civil Service and presently posted as Special Land Acquisition Officer, Public Works Department; beyond the date of his superannuation for a period of six months w.e.f. 01-06-2018 to 30-11-2018 in public interest. The said extension in service is subject to approval of Council of Ministers.

The extension is further subject to termination without assigning any reasons at any time during the period of extension.

By order and in the name of the Governor of Goa.

*Harish N. Adconkar, Under Secretary (Personnel-I).*

Porvorim, 30th May, 2018.

#### Corrigendum

No. 5/16/2012-PER/1767

Read: Order No. 5/16/2012-PER/341 dated 30-01-2018.

The Rule "FR 56 (k) (1-A) (a) on the 2nd, 5th & 6th line of the para 1 of Order read in preamble shall be corrected to read as follows:-

"Rule 48 of the CCS (Pension) Rules, 1972"

By order and in the name of the Governor of Goa.

*Harish N. Adconkar, Under Secretary (Personnel-I).*

Porvorim, 1st June, 2018.



### Department of Power

Office of the Chief Electrical Engineer

#### Order

No. CEE/Estt-31-25-88/GPSC/Part/827

On the recommendation of the Departmental Promotion Committee as conveyed by the Goa Public Service Commission vide letter No. COM/II/11/16(1)/2017/09 dated 11-04-2018, the Government is pleased to promote Shri Sebastiao Fernandes, Assistant Engineer (Elect.) to the post of Executive Engineer (Elect.) on officiating basis, Group "A" Gazetted in the Pay Matrix Level 11 with immediate effect.

2. The above promotion is in pursuance to the recommendations of GPSC contained in para 9 of the Minutes of DPC held on 10-04-2018 wherein the promotion to Shri Sebastiao Fernandes is proposed to effect on retirement of Shri A. P. John on superannuation on 31-05-2018.

2. His posting on promotion shall be issued separately. Pending posting, he shall continue to discharge the duties of the post where he is presently posted and shall draw his pay and allowances in the promoted post against the vacant post of Executive Engineer (Planning), Office of the Chief Electrical Engineer, Panaji until further orders.

3. On joining his new assignment, he shall send the copy of CTC/joining report to this office immediately. In case of refusal of promotion, he shall be debarred for promotion for a period of one year from the date of refusal of promotion.

By order and in the name of the Governor of Goa.

*N. Neelakanta Reddy*, Chief Electrical Engineer & ex officio Addl. Secretary.

Panaji, 1st June, 2018.

Order

No. CEE/Ett-31-25-88/GPSC/Part/829

Read: Order No. CEE/Ett-31-25-88/GPSC/Part/561 dated 15-05-2018.

In partial modification of the above order, the column 3 of Sr. No. 3 of para 2 may be read as "Executive Engineer (Training), Office of the Chief Electrical Engineer, Panaji" instead of "Division VIII (MRT), Margao" at preamble above.

By order and in the name of the Governor of Goa.

*N. Neelakanta Reddy*, Chief Electrical Engineer & ex officio Addl. Secretary.

Panaji, 1st June, 2018.



Department of Public Health

Order

No. 21/15/99-I/PHD/1453

Read: Government Order No. 21/15/99-I/PHD/276 dated 18-01-2018.

Government is pleased to accept the voluntary retirement tendered by Dr. Oween Jose Albuquerque, Medical Officer, under Directorate of Health Services vide letter dated 15-05-2017 in terms of O.M. No. 12-1-89-Fin(R&C) dated 29-11-1989 and O.M. No. 12/6/2001-Fin (R&C) dated 30-09-2009 issued by the Finance (Rev. & Cont.) Department and he stands relieved from the post of Medical Officer under Directorate of Health Services with effect from 15-08-2017 (f.n.).

This issues in supersession of Order No. 21/15/99-I/PHD/276 dated 18-01-2018.

By order and in the name of the Governor of Goa.

*Maria Seomara Desouza*, Under Secretary (Health-II).

Porvorim, 1st June, 2018.

Certificate

No. 22/3/2000-I/PHD/Part I/1427

Read: 1) Government Order No. 22/3/2000-I/PHD/Part I/1229 dated 10-5-2018.

Certified that the character and antecedents of the following Junior Physicians under Directorate of Health Services has been verified by the District Magistrate, South Goa, Margao it is revealed that there is nothing adverse reported against them:

Sr. No.	Name of the doctor
1.	Dr. Hubert John Viegas.
2.	Dr. Swapnil Madhav Naik.

*Maria Seomara De Souza*, Under Secretary (Health-II).

Porvorim, 29th May, 2018.

Corrigendum

No. 7/3/92-I/PHD/1452

Read: Order No. 7/3/92-I/PHD dated 17-07-2013.

In the first para of the above cited Government Order, after the word "basis" the following shall be substituted "with immediate effect" instead of "with effect from 04-07-2013 (f.n.)".

Rest of the content remains unchanged.

*Maria Seomara De Souza*, Under Secretary (Health-II).

Porvorim, 31st May, 2018.



Department of Revenue

Corrigendum

No. 35/03/02/2018-RD/1018

Read: Order No. 35/03/02/2018-RD dated 26-04-2018.

The figures and words i.e. "31/12 of the Village Talaulim" in the above mentioned Order shall be read as "31/13 of the Village Talaulim".

The remaining contents of the Order shall remain unchanged.

By order and in the name of the Governor of Goa.

*Sagun R. Velip*, Under Secretary (Revenue-I).

Porvorim, 29th May, 2018.

**Department of Women & Child Development**

Directorate of Women & Child Development

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**Notification**

No. 2-1031-Status(NOTE)/2018-19/DWCD/1785

In exercise of its executive powers, the Government of Goa herewith constitutes Committee for making recommendations for amendment to Goa State Commission for Woman Act, 1996 (Goa Act No. 10 of 1996). The Committee shall comprise of following members:-

Sr. No.	Name of the Committee Member	Designation
1.	Hon'ble Minister for Women and Child Development, Shri Vishwajit P. Rane	Chairman.
2.	The Hon'ble Justice A. P. Lavande, Retired Judge, High Court	Member.
3.	Adv. Pramod Kamat, Retired Law Secretary	Member.
4.	Mr. Saresh Lotlikar, Sr. Advocate, Ex. AG	Member.
5.	Ms. Vijaylaxmi Shivilkar, Ad hoc Senior Civil Judge and J.M.F.C., "B" Court	Member.
6.	Mr. Gurudas Tamba, Sr. Advocate	Member.
7.	Ms. Fatima Silveira, Advocate	Member.
8.	Ms. Shradha Shirwaikaer Poduval, Advocate	Member.
9.	Ms. Nikita Nadkarni Adwalpalkar, L.L.M. student	Member.
10.	Dr. Shaila D'Souza, Incharge of Centre for Women Studies in Goa, Goa University	Member.
11.	Adv. Subhalaxmi Naik, Chairperson, Goa State Women's Commission	Member.
12.	Ms. Deepali Naik, Jt. Director (WCD)	Member Secretary.

The Committee shall have mandate to re-visit and examine the provisions of the said Act and make recommendations to the Government for amendment to the said Act.

The tenure of the Committee shall conclude on submission of recommendations to the Government.

By order and in the name of the Governor of Goa.

*Deepali Naik*, Director & ex officio Joint Secretary (Women & Child Development).

Panaji, 30th May, 2018.

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**Notification**

No. 2-104(19)-2018/DW&CD/1788

The Government of Goa hereby constitutes the Project Sanctioning Committee (PSC) under "Ujjawala" scheme, a comprehensive scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation, consisting of the following members:-

1. Secretary (Women & Child Development), Secretariat, Porvorim — Chairperson.
2. Secretary, Finance Department, Secretariat, Porvorim — Member.
3. Commissioner, Labour Department, Panaji — Member.
4. Superintendent of Police, Crime Branch, Ribandar — Member.
5. Director, Anyay Rahit Zindagi (ARZ), Mormugao — Member.
6. Director, Directorate of Women & Child Development, Panaji — Member Secretary.

The above constituted committee shall examine the proposal received from eligible organization and recommend to the Ministry of Women & Child Development, New Delhi, for its approval, further continuance or otherwise depending on its performance and need.

By order and in the name of the Governor of Goa.

*Deepali Naik*, Director & ex officio Joint Secretary (Women & Child Development).

Panaji, 30th May, 2018.

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**Notification**

No. 2-104(19)-2018/DW&CD/1789

The Government of Goa hereby constitutes Monitoring Committee to ensure effective implementation of "Ujjawala" scheme, a comprehensive

scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation in the State, consisting of the following members:-

1. Secretary (Women & Child Development), Secretariat, Porvorim — Chairperson.
2. Superintendent of Police, Crime Branch, Ribandar — Member.
3. Representative of Goa Chamber of Commerce and Industry — Member.
4. Director, Anyay Rahit Zindagi (ARZ), Mormugao — Member.
5. Director, Directorate of Women & Child Development, Panaji — Member Secretary.

The above constituted committee shall meet at least twice a year and monitor the Scheme. The Chairperson may invite any other person as deemed necessary.

By order and in the name of the Governor of Goa.

*Deepali Naik*, Director & ex officio Joint Secretary (Women & Child Development).

Panaji, 30th May, 2018.

#### Notification

No. 1-125-2006-DW&CD-PART/1906

In exercise of the powers conferred by Section 17 and 18 of Commission for Protection of Child Rights Act, 2005, the Government of Goa hereby amends the Notification No. 1-125-2006-DW&CD-PART/345 dated 11-04-2018 (hereinafter called the "said Notification") as follows:

In the said Notification, for the existing entry at Serial Nos. 1 and 3, the following entry shall be substituted, namely:

1. Adv. Sushma Mandrekar @ — Chairperson. Chodankar, H. No. 713/33, Ardhawada, Maem, Bicholim-Goa
3. Fr. Maverick Fernandes, — Member. Instituto Nossa Senhora De Piedade, Near Hotel Mandovi, D. B. Marg, Panaji-Goa

By order and in the name of the Governor of Goa.

*Deepali Naik*, Director & ex officio Joint Secretary (Women & Child Development).

Panaji, 1st June, 2018.

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